Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 107 of 2004

United India Insurance Company Ltd.
through Divisional Manager, Divisional
Officer-Tikonia Nainital Road, Haldwani,
District Nainital. ..... **Appellant.**

Versus

(1)Smt. Durga Devi
W/o late Shri Nandan Singh,
R/o Gram Sabha Bar, P.O. Gagarigol,
District Bageshwar.
(2)Mahesh Chandra Arya S/o Shir Kishan Lal Arya,
R/o Baiznath, Distridt Bageshwar.
..... **Respondents.**

.....

Sri D.S. Patni, learned counsel for the appellant.
None for the respondents.

Dated: 31st Aug, 2004.

Hon'ble P. C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been preferred by the United India Insurance Company Ltd. under Section 30 of the Workmen's Compensation Act, 1923, against the judgment and award dated 27.01.2004 passed by the Workmen's Compensation Commissioner/Assistant Labour Commissioner, Haldwani (District-Nainital) in Workmen's Compensation Claim Case No. 44 of 2002, Smt. Durga Devi versus Mahesh Chandra Arya and another, whereby the Workmen's Compensation Commissioner awarded the compensation of Rs. 2,51,013/- to the claimant against the United India Insurance Company Ltd.

2- Brief facts giving rise to this appeal are that Sri Nandan Singh-husband of the applicant was in the employment of Opp. party No. 1 as conductor in Truck No. UP-28-0357. On 06.07.2002 he was going to Bageshwar via Haldwani-Dafoti marg for his personal work but the said truck fell into ravine three kilometers short to Bageshwar near Chandika temple due to which Nandan Singh sustained grievous injuries and died in the Hospital at Bageshwar. He was 28 years old at the time of accident and was getting Rs. 2500/- per month as salary. The owner of the offending Truck No. UP-28-0357 took the notice of the said accident on the same day.

3- The Opp. party No.1 owner of the offending truck filed his written statement admitting the death of Nandan Singh in the said accident. He also admitted that the deceased was under his employment as clearer at the time of accident. He stated that the said truck was insured with New India Assurance Company at the time of accident. The Opp.party No.2-New India Assurance Company filed its written statement denying all the allegations made in the claim petition. The learned Workmen's Compensation Commissioner after scrutinising the evidence adduced by the parties granted the compensation to the claimant accordingly. Feeling aggrieved, the Insurance Company has come up in this appeal.

4- The learned counsel for the appellant contended that the finding given by the learned Workmen's Compensation Commissioner in the impugned award fixing the liability of the compensation upon the appellant-Insurance Company are perverse and are not supported by cogent evidence. We have gone through the material on record and perused the impugned award. We find that the learned Commissioner on the basis of the evidence of the

parties held the age of the deceased and the monthly income of the deceased and calculated the amount of compensation. We find no reason to interfere with the finding of the learned Commissioner. The learned counsel for the appellant further contended that the learned Commissioner has awarded Rs. 36,470/- as interest on the amount of compensation at the rate of 12% from the date of accident i.e. 6.7.2002 to 6.12.2003 which is excessive and submitted that the rate of interest should be reduced. We find some force in the said contention and hold that the rate of interest as held by the learned Commissioner is excessive which is reduced. The Insurance Company shall pay the amount of compensation alongwith interest at the rate of 8 % (eight per cent) per annum from 6.7.2002 to 6.12.2003 which comes to Rs. 24,313.00. Thus, the total compensation alongwith interest which the claimant is entitled comes to 2,38,856.00 instead of Rs. 2,51,013/-.

5- The appeal is partly allowed. The impugned award is modified accordingly.

(B. S. Verma, J.) **(P.C. Verma, J.)**

31-08-2004
P.Singh